

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

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|--------------------------------|---|--|
| HOWARD KAPLAN, |) | |
| Plaintiff, |) | |
| |) | |
| |) | |
| v. |) | CIVIL ACTION NO. 104-CV-10856-MEL |
| |) | |
| WEND MANAGEMENT, INC., |) | |
| WENDY'S OLD FASHIONED |) | |
| HAMBURGERS OF NEW YORK, |) | |
| Defendants. |) | |
| |) | |

PLAINTIFF'S ASSENTED TO MOTION TO AMEND THE COMPLAINT

The Plaintiff, Howard Kaplan ("Kaplan"), hereby moves the Court for leave to amend his Complaint, pursuant to Federal Rules of Civil Procedure 15 (a), to substitute Wendy's International, Inc. as the proper defendant for the currently named Defendant, Wendy's Old Fashioned Hamburgers of New York.

After discussions with the attorney for the Defendants, Kaplan was made aware that the proper party to the lawsuit is Wendy's International, Inc. He now seeks to amend his complaint to substitute Wendy's International, Inc. for Wendy's Old Fashioned Hamburgers of New York. As this case is in the very early stages, with a scheduling conference scheduled on April 25, 2005, there will be no prejudice to the Defendants if the complaint is amended now. The Defendants assent to the filing of this motion.

WHEREFORE, Kaplan respectfully requests that the Court Amend his Complaint to substitute Wendy's International, Inc. for Wendy's Old Fashioned Hamburgers of New York as the Defendant in this action.

Respectfully submitted,

Plaintiff,
By his attorneys,

s/Rebecca G. Pontikes
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Rebecca Pontikes, BBO#637157
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Assented to,

Defendants,
By their attorneys,

s/John J. Ryan
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Dated: April 19, 2005